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EXAMINER

BOUTAH, ALINA A

ART UNIT

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/812,036
Filing Date: March 19, 2001
Appellant(s): DRYSDALE ET AL.

Stephen F. Jewett (Reg. No. 27,565)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 3, 2007 appealing from the Office action mailed December 12, 2006.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

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(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 2001/0049636	Hudda et al.	12-2001
US 6,584,448	Laor	06-2003
US 2002/0138372	Ludtke	09-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim 18-28 and 38-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPAPN 2002/0095333 by Hudda et al. (hereinafter referred to as Hudda) in view of USPN 6,584,448 issued to Laor in further view of US 2002/0138372 issued to Ludtke.

Regarding claim 18, Hudda teaches a method for a facility communication system in a commercial establishment to provide a targeted electronic communication to a user entering the establishment and having a personal wireless device comprising the steps of:

storing user specific information in a storage location (abstract);

providing the personal wireless device with a transceiver device (abstract; 0044);

recognizing the presence of the personal wireless device transceiver when the user enters the commercial establishment and the personal wireless device is within a predetermined

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distance from the facility communication system within the commercial establishment (abstract; figure 6; 0025; 0044; 00160; 0149);

sending the user specific information from the personal wireless device to the facility communication system in response to recognizing the presence of the personal wireless device when the user enters the commercial establishment (0118);

comparing the user specific information to predetermined criteria (0061; 0062); and

sending a targeted electronic communication to said personal wireless device corresponding to the user specific information (0119); and

displaying the targeted electronic communication at the personal wireless device so that the communication may be used by the user while present in the commercial establishment (0124; figures 7A-8D).

However, Hudda fails to explicitly teach: sending a request for user specific information from the facility communication system to the personal wireless device in response to recognizing the presence of the personal wireless device when the user enters the commercial establishment; and retrieving the user specific information. Laor teaches sending a request for user specific information from a server to a client and retrieving specific information (col. 1, lines 29-35).

In another analogous art, Ludtke teaches when a customer has an e-coupon stored in a PDA, the PDA can alert the user whenever he or she enters a store carrying the product covered by the coupon [0054].

At the time the invention was made, one of ordinary skill in the art would have been motivated to request and retrieve information from the personal wireless device for the purpose

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of recognizing the wireless device and for providing some pre-determined and pre-programmed level of customization (Laor: col. 1, lines 32-35).

One of ordinary skill in art would also would have been motivated to recognize the user's presence when he or she enters a store in order for him or her to be alerted when he/she is near presence of the product, and also he or she is told exactly wherein the product is located [Ludtke: 0054].

Regarding claim 19, Hudda teaches the method of claim 18 further including the step of notifying said user that a targeted electronic communication has been received by said personal wireless device (0062).

Regarding claim 20, Hudda teaches the method of claim 18 wherein said step of storing user specific information in a storage location comprises storing the user specific information within said personal wireless device (0065).

Regarding claim 21, Hudda teaches the method of claim 18 wherein said step of storing user specific information in a storage location comprises storing the user specific information at a remote storage location which is accessible by the personal wireless device (0058).

Regarding claim 22, Hudda teaches the method of claim 21 wherein the step of retrieving the user specific information comprises retrieving the user specific information from said remote storage location (0118-0120).

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Regarding claim 23, Hudda teaches the method of claim 18 wherein said personal wireless device is a cellular phone (claim 22).

Regarding claim 24, Hudda teaches the method of claim 18 wherein said personal wireless device is a pager (claim 22).

Regarding claim 25, Hudda teaches the method of claim 18 wherein said personal wireless device is a personal digital assistant (claim 22).

Regarding claim 26, Hudda teaches the method of claim 18 wherein the step of recognizing the presence of the personal wireless device transceiver when the personal wireless device is within a predetermined distance from the facility communication system comprises recognizing the presence of the personal wireless device when the user enters a facility where the facility communication system is located (0025).

Regarding claim 27, Hudda teaches the system and method of claim 18 wherein said facility communication system is located in the commercial establishment and said targeted communication signal is an e-coupon corresponding to the user specific information for use at the commercial establishment (abstract; figure 6; 0025; 0044; 0149).

Regarding claim 28, Hudda teaches the method of claim 18 wherein said facility communication system is located in the commercial establishment and said targeted

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communication is an advertisement providing data corresponding to the user specific information and relating to a product found at said commercial establishment (0003).

Regarding claim 38, Hudda teaches the method of claim 18, wherein the predetermined criteria is information relating to specific items present at the commercial establishment so that the targeted communication pertains to both the user and the items present at the establishment (0035).

Regarding claim 39, Hudda teaches the method of claim 38, wherein the commercial establishment is a merchant location, and wherein the predetermined criteria is information relating to items for sale that are in inventory at the merchant location, so that the user specific information may be compared to those items in inventory (0061).

Regarding claim 40, Hudda teaches the method of claim 39, wherein the user specific information is product preferences of the user, and wherein the method further comprises matching user specific information to items in inventory prior to sending the targeted communication to the personal wireless device (0031).

Regarding claim 41, Hudda teaches the method of claim 18, wherein the targeted communication is advertising and wherein predetermined criteria is information relating to specific items present at the commercial establishment, so that the advertising pertains to both the user and to items present at the establishment (0044).

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Regarding claim 42, teaches the method of claim 41, wherein the advertising is an e-coupon (abstract).

Regarding claim 43, Hudda teaches a system for providing targeted advertising from a commercial establishment to a user entering the commercial establishment, comprising:

a personal wireless device carried by the user and including a transceiver device (figure 9); and

a facility communication system resident at the commercial establishment having a sensing device for recognizing the presence of the personal wireless device transceiver when the user enters the establishment and the personal wireless device is within a predetermined distance from the facility communication system (abstract; 0044; 0025; 0060);

wherein the personal wireless device sends back to the facility communication system a response data message having the user specific information (abstract; figure 6; 0025; 0044; 0149);

wherein the facility communication system compares the user specific information to predetermined criteria relating to specific items at the commercial establishment (0061; 0062);

wherein the facility communication system sends a targeted electronic communication having advertising to the personal wireless device, the targeted communication pertaining to both the user and items at the commercial establishment (0119); and

wherein the personal wireless displays the targeted electronic communication so that the advertising may be used by the user while the present in the commercial establishment (0124; figures 7A-8D).

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However, Hudda fails to explicitly teach: sending a request for user specific information from the facility communication system to the personal wireless device in response to recognizing the presence of the personal wireless device when the user enters the commercial establishment; and retrieving the user specific information. Laor teaches sending a request for user specific information from a server to a client and retrieving specific information (col. 1, lines 29-35).

In another analogous art, Ludtke teaches when a customer has an e-coupon stored in a PDA, the PDA can alert the user whenever he or she enters a store carrying the product covered by the coupon [0054].

At the time the invention was made, one of ordinary skill in the art would have been motivated to request and retrieve information from the personal wireless device for the purpose of recognizing the wireless device and for providing some pre-determined and pre-programmed level of customization (Laor: col. 1, lines 32-35).

One of ordinary skill in art would also would have been motivated to recognize the user's presence when he or she enters a store in order for him or her to be alerted when he/she is near presence of the product, and also he or she is told exactly wherein the product is located [Ludtke: 0054].

Regarding claim 44, the system of claim 43, wherein the targeted communication further comprises an e-coupon (abstract).

(10) Response to Argument

Appellant's arguments have been considered but not found persuasive.

In response to Appellant's argument that none of the references disclose, teach or suggest, the claimed feature of "recognizing the presence of the personal wireless device when the user enters the commercial establishment" or "sending a request for user specific information from the facility communication system" in response to "recognizing the presence of the personal wireless device," the PTO respectfully disagrees and submits that this is taught by the Hudda-Laor-Ludtke combination as cited above.

Hudda-Ludtke combination, teaches "recognizing the presence of the personal wireless device when the user enters the commercial establishment." Specifically, the cited areas above teach the server determining the location of user's device (such as a phone or PDA) within a specified geographic distance (Hudda: abstract). The information on sales good is "pushed" to consumer's device while the consumer is in-store at a retail establishment or when the consumer is within a pre-defined distance to the store (Hudda: paragraphs 0025). Paragraph 0060 of Hudda teaches a location analysis program that receives information from a position determination means and is processed by the server to allow the server to know where the consumer is physically located, then transmits available merchant-specific offers to the consumer wireless device (Hudda: paragraph 0149). In an analogous art, Ludtke teaches a facility communication system broadcasting information to a wireless device when a user enters a store (Ludtke: paragraph 0029 and 0054). The store in this case is interpreted as the commercial establishment as claimed.

Hudda-Ludtke-Laor combination teaches “sending a request for user specific information from the facility communication.” As cited above and as admitted by Appellant, Ludtke teaches a PDA that receives broadcast product information when a user enters a store. The broadcasted product information relates to products that can be found in the store. The broadcasted information is compared to a shopping list maintained in the PDA. If the PDA has an electronic coupon for one of the products in store, the PDA can alert the user (Ludtke: paragraphs 0029, 0030 and 0054). In order for a PDA to download the product information, its presence must be recognized.

Laor teaches the use of cookies that is sent from a server to a client. The cookies are used for the purpose of recognizing the client and pre-determined level of customization, and also to identify specific client to control access to specific information of the server’s entry point (col. 1, lines 35-44). The cookie, in this case is interpreted as a request for user specific information sent from the facility to the user because by definition, it is a small file that is sent from a server to collect data from a client. It would have been obvious to one of ordinary skill in the art to apply the use of cookies taught by Laor in wireless communications.

Appellant argues that none of the references teach “recognizing the presence of the personal wireless device” or “sending a request for user specific information from the facility communication system” in response to “recognizing the presence of the wireless device.” However, it should be noted that the claims do not specifically state that the sending for user information is “*in response*” to recognizing the presence of the wireless device. Hudda teaches requesting for user specific information from the facility communication after the user logs into the system in the store (figure 6).

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

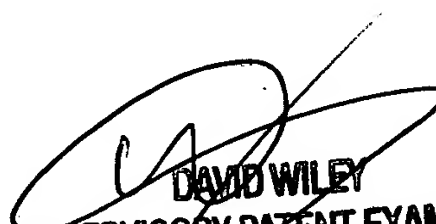
For the above reasons, it is believed that the rejections should be sustained.

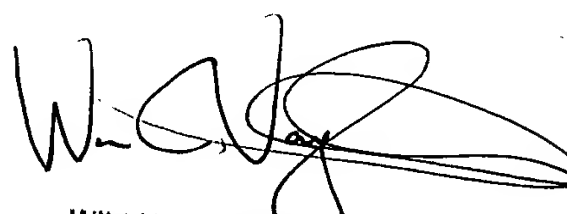
Respectfully submitted,

ANB

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